

Applicants: Novak et al.

Serial No.: 10/659,684

Filed: September 10, 2003

For: CYTOKINE ZALPHA11 LIGAND

REMARKS

Claims 1-3, 5, 6, and 9-11 are pending. Claims 9-11 have been amended. Claims 4, 7, and 8 are canceled. Claims 12-47 have been canceled because they are in non-elected restriction groups. Applicants expressly reserve the right to prosecute the canceled subject matter in other related applications.

Rejections Under 35 U.S.C. §112

Enabling

The Examiner rejected claims 9-11 under 35 U.S.C. §112, first paragraph alleging that the specification, while being enabling for a composition of polypeptides of SEQ ID NO:2, allegedly does not reasonably provide enablement for all pharmaceutical compositions.

Applicants maintain that claims 9-11 are enabled as pharmaceutical compositions because the specification does teach how to use a zalpha11 Ligand pharmaceutical composition to treat a disease in an animal. Such teachings are found throughout the specification, for example, as provided in Example 51. To expedite prosecution, applicants have amended claims 9-11 to recite the Office's proposed claim language for compositions. With the amendment, the rejection has been obviated and applicants respectfully request the rejection be withdrawn and the claims allowed.

Double Patenting

The Examiner provisionally rejected claims 1-7 and 9-11 under 35 U.S.C. §101 as claiming the same invention as that of claims 1-7 and 9-11 of copending Application No. 11/551,807.

Applicants are enclosing a copy of a letter for Express Abandonment under 37 CFR §1.138 in US Patent Application No. 11/551,807. Abandonment of said application obviates the need for a Terminal Disclaimer in the present case and places the case in condition for allowance. Applicants respectfully request that the Examiner send a Notice of Allowance.

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Conclusion

In light of the above amendments and remarks, reconsideration and withdrawal of the rejections are respectfully requested. It is, thus, respectfully requested that claims 1-3, 5, 6, and 9-11 are in condition for allowance and notification to that effect is respectfully requested. If for any reason the Examiner feels that a telephone conference would expedite prosecution of the application, the Examiner is invited to telephone the undersigned at (206) 442-6672.

Respectfully Submitted,



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